

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In The Matter of)
)
Implementation of Section) PP Docket No. 93-253
309(j) of the Communications)
Act - Competitive Bidding)
Narrowband PCS)

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To: The Commission

ADDITIONAL COMMENTS OF Pagemart, Inc.

PageMart, Inc. ("PageMart"), by its attorneys,
hereby responds to the Request for Additional Comment issued
in the above-captioned proceeding.^{1/} PageMart is an
innovative paging company that provides low-cost, nationwide
services. PageMart was the high bidder on, and has been
granted, a nationwide unpaired 50 MHz narrowband personal
communications service ("PCS") license.^{2/} PageMart is also
an applicant for five regional narrowband PCS licenses on
which it was the high bidder at the regional auction
concluded in November 1994.^{3/}

In this proceeding, the Commission requests
additional comment on its proposals for establishing
narrowband PCS entrepreneurs' blocks. These proposals were

^{1/} Public Notice DA 94-1560 (Dec. 21, 1994).

^{2/} See File No. 28055-CN-P/L-94 (license issued Sept. 29,
1994).

^{3/} See File Nos. 00012-CN-L-95; 00018-CN-L-95; 00024-CN-L-
95; 00030-CN-L-95; 00036-CN-L-95 (filed Nov. 23, 1994).

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first set forth in the Third Memorandum Opinion and Order and Further Notice of Proposed Rulemaking ("FNPRM").^{4/} The FCC has requested additional comment because of, inter alia, the results of the recent regional narrowband PCS auction and the Commission's reconsideration of its broadband PCS entrepreneurs' block rules.^{5/} Both of these events occurred after the comments and reply comments were filed in response to the FNPRM.

PageMart applauds the Commission's decision to seek additional public comment. PageMart also acknowledges that the intervening events are significant, and accordingly has modified some of its proposals regarding the BTA/MTA auction. The instant comments, therefore, represent PageMart's current views on the proposals contained in the FNPRM.

I. Designated Entity Performance In The Regional Auction Demonstrates That Only Limited Measures Are Needed To Assist Designated Entities.

A. Designated Entities Were Successful In The Regional Auctions.

In large part, the genesis of the entrepreneurs' blocks proposal for narrowband PCS was the poor showing at the nationwide auction of small and minority-and women-owned businesses. These results apparently caused the Commission to question whether

^{4/} PP Docket No. 93-253, FCC 94-219 (August 17, 1994).

^{5/} Fifth Memorandum Opinion and Order PP Docket No. 93-253, FCC 94-178 (July 15, 1994) ("Fifth MO&O").

preferences alone would afford designated entities an adequate opportunity to participate in narrowband PCS. The FCC thus proposed to reserve up to four MTA frequency blocks (channels 19, 21, 22 and 24), and both BTA frequency blocks (channels 25 and 26) for bidding exclusively by entities that qualified as entrepreneurs.^{6/} The Commission reasoned that reservation of these blocks, by excluding large companies from bidding on these frequencies, would significantly enhance opportunities for smaller entities to become PCS providers.^{7/}

Notwithstanding the Commission's concerns, women and minority-controlled firms were successful in obtaining 10 of the 30 available PCS licenses at the regional auctions.^{8/} The credit for these results belongs with the Commission, which designed bidding procedures that enabled these entities to acquire spectrum. The success of such bidders in the regional auction also demonstrates that expansive entrepreneurs' blocks are unnecessary.^{9/}

^{6/} FNPRM at ¶ 64.

^{7/} Id.

^{8/} See Public Notice, Report No. CN-95-1 (Dec. 9, 1994).

^{9/} Although PageMart does not qualify as a woman- or minority-owned business for FCC purposes, it is proud of the role that women and minorities play in the company. A substantial portion of the company's employees are women and/or members of minority groups. Perhaps even more significantly, several officers and senior staff are also women and/or members of minority groups.

B. The Entrepreneurs' Blocks Should Be Limited To Channels That Originally Were Designated For Bidding Credits.

Although PageMart continues to support the Commission's proposal to create entrepreneurs' blocks for bidding by minority or women-owned businesses, PageMart urges the Commission to limit these blocks to those channels that originally were designated for bidding credits.

Setting aside most of the MTA and all of the BTA channels for bidding by small firms (as the Commission has proposed) would impose a severe constraint on medium-sized firms such as PageMart, which may need additional spectrum only in a handful of markets where heavy usage is anticipated. The set-aside would leave insufficient additional spectrum available for non-entrepreneurs, thereby artificially inflating license cost. This would, in turn, result in higher service costs for consumers.

Hence, the Commission should balance the concerns of all bidders and adopt more limited entrepreneurs' blocks. This approach would best serve the public interest by encouraging both small and medium-sized providers to enter the market, and would result in rapid, cost-effective and efficient service deployment.

II. Further Aggregation Of Licenses Should Be Limited.

A. Medium-Sized Firms Need the Opportunity To Acquire MTA Licenses.

Given the significant amount of spectrum that already has been geographically aggregated,^{10/} PageMart anticipates that there now will be significant demand for geographically smaller licenses for use by nationwide and regional licensees to augment capacity in MTAs where demand is expected to be strong. Thus, PageMart urges the Commission to refrain from a reallocation of the remaining narrowband spectrum to create larger service areas.

The regional auction demonstrated that the Commission was correct in its estimation that simultaneous, multiple-round bidding would facilitate geographic aggregation of spectrum. Under the existing rules, licensees that seek to aggregate spectrum would still be permitted to do so through the Commission's bidding process, but those seeking individual licenses would not be shut out of these markets. Demand is not uniform throughout the nation. Access to individual MTAs is thus important to provide efficient service to the public.

Even if the Commission were to conclude that much of the demand will be for larger service areas, this fact does not justify the aggregation of all non-entrepreneurs' block MTA-sized licenses. At a minimum, PageMart urges that

^{10/} On four of the eight available regional frequencies, bidders were able to capture frequency-coordinated licenses in all regions.

at least one MTA channel be available to companies that do not qualify to bid on the entrepreneurs' blocks. This approach would provide all bidders with a balanced array of service area choices.

B. If Further Aggregation Is Sought, The Commission Should Utilize Combinatorial Bidding, Rather Than A Reallocation Of Spectrum.

If the Commission determines that the simultaneous, multiple-round auction format in itself does not permit adequate geographic aggregation -- something that it obviously did not conclude for purposes of the broadband auctions -- PageMart believes that the most appropriate solution is combinatorial bidding, rather than a reallocation of license service areas. A reallocation would unnecessarily constrain all firms, making it impossible to acquire more spectrum only in certain markets. By contrast, combinatorial bidding would facilitate aggregation, while giving other bidders an opportunity to acquire licenses for smaller geographic areas. If combinatorial bidding is selected, the Commission should require that such bids be judged on a "premium basis" (i.e., a combinatorial bid would be required to exceed the sum of individual bids by at least 20%). This approach would help to offset the "free rider" problem that would otherwise bias the bidding in favor of combinatorial bidders.

III. Adoption Of The Commission's Broadband Entrepreneurs' Block Eligibility Criteria Is Inappropriate For Narrowband PCS.

In its Fifth MO&O regarding broadband PCS auctions, the Commission significantly relaxed the rules governing eligibility to bid in the broadband entrepreneurs' blocks.^{11/} The Commission loosened these rules primarily to encourage partnering among designated entities and investors such as venture capital firms and larger telecommunications companies. Concern existed that the Commission's prior rules were overly stringent and would choke off capital to entrepreneurs. Given the acknowledged, massive capital requirements for broadband PCS (both in terms of bidding and system deployment), and the risky nature of such investments even under the best of circumstances, the Commission determined that it needed to do everything possible to encourage capital flows to broadband PCS entrepreneurs.^{12/}

PageMart does not dispute the wisdom of this decision, but rather its relevance to the instant proceeding. Although narrowband license acquisition and system deployment will not be cheap, the cost to providers is likely to be minuscule when compared with broadband. The differential cost structure will be particularly great in the case of narrowband PCS at a BTA or MTA level, where acquisition and deployment costs will be affordable for designated entities. Because the costs of deploying a

^{11/} See Fifth MO&O.

^{12/} See id. ¶¶ 4, 62.

narrowband system are considerably less than for broadband, the need to relax the eligibility rules for the narrowband entrepreneurs' blocks simply does not exist.^{13/}

The Commission is obviously aware that the less stringent its entrepreneurs' blocks qualification rules are, the less well they serve the goal of bringing minorities, women, and small businesses into the provision of PCS. The Commission should therefore avoid any such relaxation because it would undermine the purposes of the entrepreneurs' blocks and would frustrate one of the Congressionally-mandated auction goals.

IV. CONCLUSION

PageMart supports the Commission's efforts to reconsider the design of its MTA/BTA narrowband PCS auction rules in light of the experience gained at the national and regional auctions. Designated entities have shown their ability to compete with other firms, and thus the Commission should not adopt an expansive entrepreneurs' block proposal. Instead, limiting the blocks to those licenses already designated for a bidding credit, and keeping the existing eligibility rules intact, are the preferred options.

The Commission should also refrain from a reallocation of license service areas. Demand for narrowband PCS will not be uniform in all markets, and

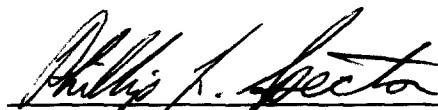
^{13/} The evidence from the regional auction shows that designated entities will not encounter capital formation difficulties.

entrepreneurs as well as non-entrepreneurs may seek MTA-sized licenses in certain markets to handle anticipated excess demand. To ensure a "level playing field," all bidders should have access to adequate licenses for this size of service area. Finally, if the Commission is persuaded to encourage additional geographic aggregation, it should do so through combinatorial bidding, rather than a reallocation of license service areas.

Respectfully submitted,

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